

IC 12-20-23

Chapter 23. County Borrowing for Township Assistance

IC 12-20-23-1

Authorization

Sec. 1. If the board of commissioners of a county finds that the amount of money required by the townships of the county for the providing of township assistance is greater than can be reasonably advanced by the county out of available money, the board of commissioners of the county may borrow on behalf of the county sufficient money for that purpose, subject to the limitations set forth in this chapter.

As added by P.L.2-1992, SEC.14. Amended by P.L.73-2005, SEC.100.

IC 12-20-23-2

Tax rate level prerequisite to borrowing money

Sec. 2. A county may not borrow money to provide an advancement to a township unless the township has a township assistance ad valorem property tax rate of at least one and sixty-seven hundredths cents (\$0.0167) per one hundred dollars (\$100) of assessed valuation.

As added by P.L.2-1992, SEC.14. Amended by P.L.6-1997, SEC.144; P.L.73-2005, SEC.101.

IC 12-20-23-3

Amount of loan

Sec. 3. A loan may be made under this chapter in an amount sufficient to pay the following:

- (1) The indebtedness incurred by the townships in providing township assistance.
- (2) The amount estimated by the board of commissioners to be needed for a period not to exceed six (6) calendar months beginning with the month following the month in which the board's finding is made.

As added by P.L.2-1992, SEC.14. Amended by P.L.73-2005, SEC.102.

IC 12-20-23-4

Loan prerequisite procedures

Sec. 4. (a) Before making a loan under this chapter, the board of commissioners shall, in either a regular or special session, enter of record the following:

- (1) A finding that the necessary advancements are in excess of the amount that can be reasonably advanced by the county out of available money.
- (2) The period to be provided for from the proceeds of the proposed loan.
- (3) The estimated requirements for each township of the county for that period.

(b) Before making a loan, the board of commissioners also shall direct the county auditor to call the county fiscal body into special session for the purpose of considering the making of the loan.
As added by P.L.2-1992, SEC.14.

IC 12-20-23-5

Notice of county fiscal body special session to consider loan

Sec. 5. When giving notice of a special session of the county fiscal body for the purpose of considering making a loan under this chapter, the county auditor shall include in the notice a statement of the estimated amounts required by the township and the period covered by the estimate. The township trustee of a township seeking the loan shall supply the county auditor with information that the auditor needs to comply with this section.

As added by P.L.2-1992, SEC.14. Amended by P.L.145-1993, SEC.7; P.L.101-2000, SEC.7.

IC 12-20-23-6

Ordinance authorizing loan

Sec. 6. The county fiscal body may authorize a loan under this chapter by ordinance, at any regular meeting, without special notice being given, if requested by the board of commissioners.

As added by P.L.2-1992, SEC.14.

IC 12-20-23-7

Adoption or further consideration of loan-authorizing ordinance

Sec. 7. An ordinance authorizing a loan under IC 12-2-5 (before its repeal) or this chapter may be finally adopted at the meeting at which the ordinance is first presented or the county fiscal body may adjourn from day to day for the further consideration of the ordinance.

As added by P.L.2-1992, SEC.14.

IC 12-20-23-8

Ordinance requisites; maximum bond amounts, interest rates, and number of payable semiannual series

Sec. 8. (a) An ordinance adopted by a county fiscal body authorizing a loan under this chapter must do the following:

- (1) Authorize the issuance of the bonds of the county to evidence the loan.
- (2) Fix the maximum amount of the bonds, subject to subsection (b).
- (3) Fix the maximum rate of interest to be paid on the bonds, subject to subsection (c).
- (4) Fix the number of semiannual series in which the bonds must be payable, subject to subsection (d).

(b) The maximum amount of bonds issued by a county under this chapter may be less than that shown by the estimate of the board of commissioners.

(c) The number of semiannual series in which the bonds issued by

a county under this chapter are payable may not exceed twenty (20).
As added by P.L.2-1992, SEC.14. Amended by P.L.41-1993, SEC.31.

IC 12-20-23-9

Semiannual series; requisites; tax levies

Sec. 9. (a) Bonds issued by a county under this chapter must be issued so that one (1) series is payable June 1 and one (1) series is payable December 1 in each year in which the bonds are payable. The series must be as nearly equal as possible considering the amount of the issue, the number of serial maturities, and the denominations desired to be used.

(b) The first series of bonds and the first interest coupons must be payable June 1 of the year following the time for establishing the next annual tax levies after the date of the issue.

(c) If the issuance of bonds under IC 12-2-5 (before its repeal) or this chapter is authorized by the county fiscal body at the fiscal body's regular meeting held for the purpose of establishing tax levies for the succeeding year, the county may require that the first two (2) series of the bonds mature in the following year if proper provision is made for the payment of the bonds and interest coupons that are payable in the following year.

As added by P.L.2-1992, SEC.14.

IC 12-20-23-10

Additional loans

Sec. 10. If the proceeds of the bonds authorized under IC 12-2-5 (before its repeal) or this chapter are not sufficient to enable the county to make the necessary advancements to the townships for township assistance during the entire period covered by the estimate, additional loans may be made for that period.

As added by P.L.2-1992, SEC.14. Amended by P.L.73-2005, SEC.103.

IC 12-20-23-11

Order; requisites; denominations; form

Sec. 11. (a) After the adoption of a bond ordinance by the county fiscal body, the board of commissioners shall enter an order fixing the following:

(1) The exact amount of the proposed loan within the maximum amount provided in the ordinance.

(2) The exact rate of interest on the bonds or providing that the interest rate must be the lowest interest rate bid on the bonds, not exceeding the maximum interest rate provided in the ordinance.

(b) The board of commissioners may fix the denominations of the bonds or may provide that the bonds must be in the denominations requested by the successful bidder. However, the denominations so selected must not change the amount of the serial maturities of the bonds.

(c) The board of commissioners shall adopt the form of bond to

be used in the issuance of the bonds. The form must be substantially followed in the issuance of the bonds.

As added by P.L.2-1992, SEC.14.

IC 12-20-23-12

Notice to taxpayers

Sec. 12. Upon adoption of the order of the board of commissioners, the county auditor shall give notice to taxpayers of the determination to make the loan and shall issue the bonds.

As added by P.L.2-1992, SEC.14.

IC 12-20-23-13

Remonstrance and appeal

Sec. 13. (a) The provisions of law in effect on March 2, 1935, concerning rights of taxpayers to file a remonstrance and appeal to the department of local government finance apply to this chapter, except as provided in subsections (b) and (c).

(b) The notice of determination shall be given by one (1) publication only.

(c) Taxpayers have ten (10) days after the date of the publication to file a remonstrance as provided by law on March 2, 1935.

As added by P.L.2-1992, SEC.14. Amended by P.L.90-2002, SEC.349.

IC 12-20-23-14

Sale of bonds; publication of notice

Sec. 14. (a) The provisions of general statutes relating to the preparation and sale of bonds by counties apply to the preparation and sale of bonds issued under IC 12-2-5 (before its repeal) or this chapter, except as otherwise provided by this chapter.

(b) Before the sale of bonds, the county auditor shall cause notice of the sale to be published:

(1) at least one (1) time each week for two (2) weeks in at least two (2) newspapers published in the county; and

(2) one (1) time in a newspaper published in the city of Indianapolis;

at least seven (7) days before the date fixed for the sale of the bonds.

(c) If the order of the board of commissioners provides for a bid rate on the bonds, the notice of sale must state the following:

(1) The bid rate.

(2) That the highest bidder for the bonds will be the person that offers the lowest net interest cost to the county, to be determined by computing the total interest on all of the bonds to maturity and deducting from the amount the premium bid if any.

(d) The county auditor shall sell the bonds to the highest bidder. If a satisfactory bid is not received for all of the bonds at the time fixed in the notice of sale, the county auditor may continue the sale from day to day and sell the bonds in parcels, until otherwise directed by an order of the board of commissioners.

(e) If the successful bidder for all or any part of the bonds is the holder of approved township assistance claims as provided by law against any of the townships of the county, the bidder may apply those claims on the purchase price of the bonds awarded to the bidder. The county treasurer shall receive the claims at face value in lieu of cash, and the county auditor shall charge that amount against the proper township as an advancement to the township from the county.

As added by P.L.2-1992, SEC.14. Amended by P.L.73-2005, SEC.104.

IC 12-20-23-15

Direct obligations of county; tax levy

Sec. 15. (a) All bonds issued under IC 12-2-5 (before its repeal) or this chapter are the direct general obligations of the county issuing the bonds, payable out of unlimited ad valorem taxes to be levied and collected on all of the taxable property within the county. Each official and body having to do with the levying of taxes for the county shall ensure that sufficient levies are made to meet the principal and interest on the bonds at the time fixed for the payment of the bonds, without regard for the provisions of any other statute. If an official or a body fails or refuses to make or allow a sufficient levy, the bonds and the interest on the bonds are payable out of the general fund of the county without an appropriation being made for the payment.

(b) A tax levy required by IC 12-2-5-6(a) (before its repeal) or subsection (a) may be reduced by the amount the county will receive in reimbursements from each township that receives an advancement of bond proceeds. The department shall determine the amount the county will receive for each year that the bond principal and interest are payable. However, to the extent that the advancements together with all other township indebtedness exceed two percent (2%) of the adjusted value of the taxable property in the township as determined under IC 36-1-15, the township may not impose an ad valorem property tax levy to reimburse the county and the county is liable for the principal and interest obligations on the bonds.

As added by P.L.2-1992, SEC.14. Amended by P.L.6-1997, SEC.145; P.L.90-2002, SEC.350.

IC 12-20-23-16

Expense of bond sale; proceeds special fund

Sec. 16. (a) The county auditor shall be authorized to pay out of the bond proceeds, upon approval of the board of commissioners and without further appropriation, the following:

- (1) The cost of publishing the notice of determination, bond sale notice, and the printing of the bonds.
- (2) The expense for legal services incurred in the sale of the bonds.

(b) The proceeds of the bonds remaining after the payment of the costs of the issuance of the bonds shall be held in a special fund. The

fund may only be used for the purpose of making advances to the townships of the county for township assistance purposes.

As added by P.L.2-1992, SEC.14. Amended by P.L.73-2005, SEC.105.

IC 12-20-23-17

Interest on advancements

Sec. 17. The county auditor shall charge each township interest on the amounts advanced under IC 12-2-5 (before its repeal) or this chapter from the time the advancements are made to the time of payment by the township at the same rate as paid by the county on the bonds from the proceeds of which the advancements are made.

As added by P.L.2-1992, SEC.14.

IC 12-20-23-18

Commingling or transfer of funds

Sec. 18. A county auditor or other county official may not do any of the following:

- (1) Commingle or transfer township assistance money raised by tax levy from the credit of one (1) township or account to another township or account.
- (2) Transfer money raised by a township assistance bond issue to the credit of a township for which the bonds were not issued.
- (3) Transfer township assistance money to the credit of any other fund or account.

As added by P.L.2-1992, SEC.14. Amended by P.L.73-2005, SEC.106.

IC 12-20-23-19

Township taxes to reimburse county for advancements

Sec. 19. (a) Except as provided in subsection (b), the township trustee and the township board of a township to which an advancement is made under IC 12-2-5 (before its repeal) or this chapter shall, at the next annual meeting of the township board after the making of an advancement by the county and annually thereafter until paid, levy an ad valorem property tax sufficient to reimburse the county for all advancements made under IC 12-2-5 (before its repeal) or this chapter, together with the interest on the advancements. The township shall repay to the county the principal amount of the advancements in the same number of years as the bonds from which the advancements are made are payable. If the officers fail to levy a sufficient property tax to repay the advancements as provided in this section, the county auditor shall levy the property tax or increase the property tax levy made by the trustee and township board in an amount that will reimburse the county for the advancements at the time and in the manner as provided in this section.

(b) Subsection (a) does not apply to a township during the time that the township's indebtedness exceeds two percent (2%) of the adjusted value of the taxable property in the township as determined under IC 36-1-15.

As added by P.L.2-1992, SEC.14. Amended by P.L.6-1997, SEC.146.

IC 12-20-23-20

Refunding bonds

Sec. 20. If sufficient money is not available for the payment of:

(1) bonds authorized under IC 12-2-5 (before its repeal) or this chapter; or

(2) obligations issued under the provisions of Acts 1931, c.73, as amended by Acts 1932(s.s.), c.46, or Acts 1933, c.203;

in accordance with the provisions of the bonds or obligations, it is lawful to refund the bonds or obligations, together with any accrued interest, under this chapter upon a finding by the board of commissioners of the county that refunding is necessary.

As added by P.L.2-1992, SEC.14.

IC 12-20-23-21

Public policy; construction of chapter

Sec. 21. Because the necessity of providing a clear and economical method for the borrowing of money to finance township assistance costs is of paramount importance to the public welfare, this chapter may not be construed as being repealed by implication, notwithstanding any conflicting provisions of any statute of the 1935 session of the general assembly. This chapter prevails over every statute of the 1935 session of the general assembly, unless this chapter is expressly repealed by a subsequent statute.

As added by P.L.2-1992, SEC.14. Amended by P.L.73-2005, SEC.107.